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| 10/807,935 | 03/24/2004 | William D. Denison | 4800 P 009 | 5150 |

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EXAMINER

ZIMMERMAN, BRIAN A

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| ART UNIT | PAPER NUMBER |
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2612

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/807,935
Filing Date: March 24, 2004
Appellant(s): DENISON ET AL.

Edward Bishop
For Appellant

EXAMINER'S ANSWER

MAILED
JUL 19 2006
GROUP 2600

This is in response to the appeal brief filed 6/13/06 appealing from the Office action
mailed 12/13/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any additional related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal that have not been listed by the applicant.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The rejection of claims 22,24,32,33,41 and 42 have been withdrawn. Claims 22,24,32,33,41 and 42 are objected to for containing allowable

subject matter and would be allowed if amended to independent form including all limitations of any intervening claims.

(7) Claims Appendix

A substantially correct copy of appealed claims appears on pages 11-16 of the Appendix to the appellant's brief. The minor errors are as follows: Claim 23 has been omitted from the appendix.

(8) Evidence Relied Upon

| | | |
|---------|----------|---------|
| 4354189 | Lemelson | 10-1982 |
| 5109530 | Stengel | 4-1992 |
| 4353064 | Stamm | 10-1982 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-4,6-9,11-17,19,20,21,23,25-31,34-40,43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel (5109530) and Lemelson (4354189).

Lemelson shows an unlocking device where a receiver in the reader receives a reply signal from a coded ring, but does not specifically show the power controlling modes claimed. In an analogous art, Stengel teaches a method that is used to save power in a receiver. Stengel's receiver deactivates a circuit for a first time period (tx) in

step 310. The receiver then enables the circuit for a second time period in step 304. Upon sensing an electromagnetic signal during the second time period, the enabling is extended for a greater time (ty) step 320. The received signal can then be processed because it will be received in its entirety during the extended time. This method saves power in the receiver system.

2. Claims 5,10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel and Lemelson as applied to claims 1,8 and 15 above, and further in view of Stamm (4353064).

In an analogous art, Stamm shows the use of Infrared as an alternative electromagnetic signal (alternative to RF). This has the inherent advantage that the signal does not radiate outside a building and is therefore harder to eavesdrop.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used an infrared signal for communication in the above system since such would provide improved security to the access system.

(10) Response to Argument

The appellant argues that nothing is disclosed in Lemelson regarding conserving power as claimed. The appellant argues that Lemelson makes no attempt to conserve power. The appellant argues that Lemelson does not teach or suggest enabling a circuit for an extended time period so an input code can be received. The appellant does not argue that Lemelson does not show the locking features of the claims, ie (claim 1 for

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example) receiving an input code, comparing the input code to an access code and unlocking the lock if the input code matches the access code. So it appears that the appellant agrees that Lemelson teaches these elements. The difference between Lemelson and the claims is the battery saving steps in the receiver.

The appellant argues that nothing is disclosed in Stengel regarding the applicability of the battery saver to unlocking devices. The appellant does not argue that Stengel does not teach the battery saving steps of the claims, ie (claim 1 for example) deactivating the circuit for a first time, enabling the circuit for a second time, sensing an EM signal during the second time and enabling the circuit for an extended time if an EM signal is sensed during the second time to enable reception of additional data. So it appears that the appellant agrees that Stengel teaches these elements. It is the examiner's position that Stengel teaches the use of these steps in any receiver that is battery powered in order to save power and Lemelson's receiver would benefit from the battery saving steps suggested by Stengel.

The appellant argues that the prior art must suggest the desirability of the claimed invention, and as such, the combination only exists in view of hindsight. First it is noted that the claims do not impart power saving in the locking or unlocking functions of the device, the claim do impart power saving elements in the communication functions of the locking/unlocking device. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or

motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Stengel does specifically teach a method that is used to save power in a battery powered receiver and Lemelson includes a receiver that is battery powered.

The appellant argues that the level of ordinary skill in the art at the time of the invention was overlooked. The appellant attests to this by stating that the inventors recognized the advantages of conserving power in an unlocking device. This does not attest to the level of skill in the art, in fact it has nothing to do with determining the level of skill in the art at the time of the invention.

The appellant argues that the references do not disclose a low battery indicator. The claims do not call for a low battery indicator.

The appellant argues that the references do not disclose a two current solenoid. The claims do not call for a two current solenoid. The claims do call for a solenoid to operate the lock, and Lemelson shows such a solenoid.

The appellant argues that the references do not disclose reading and writing of codes. It is the examiner's position that the codes are stored in memory and therefore inherently a step of writing the codes into memory existed somewhere during the manufacture or set up of the system. It is the examiner's position that the codes are read from memory each time a comparison is made for unlocking.


(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Brian Zimmerman
BAZ

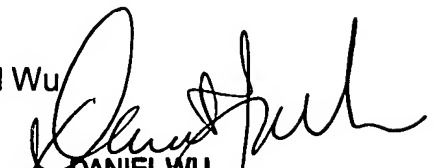


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